

Programmatic General Permit No. 98

Effective Date: January 25, 2017

Expiration Date: January 25, 2022

DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS, SAVANNAH DISTRICT  
PROGRAMMATIC GENERAL PERMIT 98  
FOR MINOR STRUCTURES AND WORK IN  
TENNESSEE VALLEY AUTHORITY RESERVOIRS  
BLUE RIDGE, NOTTELY, AND CHATUGE  
WITHIN THE STATE OF GEORGIA

1. On the recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 United States Code (U.S.C.) § 403) (Section 10) and Section 404 of the Clean Water Act (CWA, 33 U.S.C. § 1344) (Section 404), authority is hereby given under Programmatic General Permit 98 (PGP 98) for minor structures and work in Blue Ridge Reservoir located on the Toccoa River in Fannin County, Georgia (Latitude 34.8825, Longitude -84.2790); Nottely Reservoir located on the Nottely River in Union County, Georgia (Latitude 34.9614, Longitude -84.0960); and the southern portion of Chatuge Reservoir located on the Hiwassee River in Towns County, Georgia (Latitude 34.9851, Longitude -83.7944). Blue Ridge Reservoir is regulated by the U.S. Army Corps of Engineers under Section 10 and Section 404. Nottely and Hiwassee Reservoirs are regulated under Section 404 only.

2. The Tennessee Valley Authority (TVA) manages reservoir shoreline construction in Blue Ridge, Nottely, and Chatuge Reservoirs through issuance of Section 26a Permits, which regulate the construction of shoreline structures and other related activities. Section 26a of the TVA Act (U.S. Congress, 1933 as amended) requires that the TVA approval be obtained prior to construction, operation, or maintenance of any dam, appurtenant works, or other obstruction affecting navigation, flood control, public lands, or reservations across, along or in the Tennessee River or its tributaries. The TVA administers Section 26a authority under Title 18: Code of Federal Regulations.

3. PGP 98 authorizes activities which are considered to be minor in nature and would cause only minimal individual and cumulative environmental impacts. All proposals must be in accordance with the guidelines and limitations set forth in the conditions of PGP 98. Activities not authorized by PGP 98, and activities that exceed the limitations of the PGP would require individual review by the Corps and authorization under Nationwide Permit, Letter of Permission, or Individual Permit. The District Commander may also require individual review of a project on a case-by-case basis if it is determined that authorization by PGP 98 is not in the public interest.

4. Prior to conducting work under authority of PGP 98, a Section 26a Permit must first be obtained from TVA. When TVA completes review of a proposed activity and issues a Section 26a Permit for a structure or work listed below, such a structure or work is automatically verified to be authorized by the Corps pursuant to Section 10 and/or Section 404, under authority of PGP 98:

a. Docks, Piers, Boathouses, and Other Water Use Facilities. Construction, modification, and maintenance of fixed and floating docks, piers, and boathouses; steps leading to the reservoir; walkways leading to dock facilities; water intakes, geothermal heat exchange units or electrical lines attached to dock facilities; and other associated structures. (Section 10)

b. Marina Facilities. New construction, modification, reconfiguration, and maintenance of commercial fixed and floating dock structures, and associated appurtenant works within TVA authorized harbor limits. (Section 10)

c. Mooring Buoys, Mooring Pilings, Dolphins, and Information Buoys and Signs. (Section 10)

d. Fish Attractors. Installation of fish attractant and habitat structures, and non-native aquatic vegetation removal. (Section 10 and 404)

e. New Work Channel Excavation. Excavation of material from the reservoir bottom to create sufficient depth for mooring and navigation of vessels. The volume of material and the excavation area is limited to the length, width, and depth needed to achieve a water depth of 3 feet, at normal full pool elevation of the reservoir. Excavation shall only be performed between the reservoir shoreline and surface of the lake, when the reservoir is below full pool elevation; referred to as work in the dry. Excavated material shall be disposed of in a confined upland disposal site located above the 100-year floodplain. The discharge of effluent from a confined upland disposal site is not authorized. (Sections 10 and 404)

NOTE: Maintenance excavation of previously authorized facilities is not authorized by PGP 98. An application must be submitted to the Corps for use of Regional Permit 99 prior to conducting maintenance excavation in a facility with a valid 26.a Permit.

f. Shoreline Stabilization. Shoreline stabilization necessary for erosion control. All fill and excavation work shall be performed in the dry. (Sections 10 and 404)

g. Boat Ramps and Other Recreation Watercraft Launching Facilities. The discharge of the fill material and/or the excavation of material necessary for the construction, improvement, expansion, or maintenance of boat ramps, or other recreational watercraft launching facilities. Only clean, inert material shall be used for fill material. Excavated material not used for boat ramp construction will be disposed of in a confined upland disposal site located above the 100-year floodplain. All fill and

excavation work shall be performed in the dry. The discharge of effluent from a confined upland disposal site is not authorized. (Sections 10 and 404)

h. Jetty/Breakwater. The discharge of fill material necessary for the construction of a jetty or breakwater. A jetty is oriented perpendicular to the shoreline, and a breakwater is oriented parallel to the shoreline. All work shall be performed in the dry. (Sections 10 and 404)

i. Public Recreational Swim Beaches. Excavation of material, and/or the discharge of fill material for the construction or maintenance of beaches. Only clean, inert material shall be used for any discharge. Excavated material not used for swim beach construction, will be disposed of in a confined upland disposal site located above the 100-year floodplain. All fill and excavation work shall be performed in the dry. The discharge of effluent from a confined upland disposal site is not authorized. (Sections 10 and 404)

#### GENERAL CONDITIONS:

1. Modification, suspension, or revocation of this PGP shall not be the basis for any claim for damages against the United States.
2. No attempt shall be made by a Permittee to prevent the full and free use by the public of all navigable waters at or adjacent to an activity authorized by this PGP.
3. If and when a Permittee desires to abandon the activity authorized by this PGP, the permittee must restore the area to the original condition or a condition satisfactory to the Corps. Other state or federal permitting agencies may have additional restoration requirements.
4. The Permittee hereby recognizes the possibility that the structure permitted herein may be subject to damage by waves from passing vessels. The issuance of this PGP does not relieve the Permittee from taking all proper steps to ensure that the integrity of the structure permitted herein and the safety of boats moored thereto from damage by wave wash and the Permittee shall not hold the United States liable for such damage.
5. Activities not specified in this PGP or which exceed the limitations of this PGP require prior authorization under a Department of the Army Nationwide Permit, Letter of Permission, or Individual Permit from the Corps. The District Commander may also require Individual Permit authorization on a case-by-case basis if he determines authorization under this PGP for a project might be contrary to the public interest.
6. The District Commander may, by following the procedures outlined in the Corps Regulatory Programs (33 Code of Federal Regulation § 325.7) modify, suspend, or revoke this PGP for an individual activity, a category of activities, or a geographic area

if he feels it would be in the public interest. The general public would be notified of such action by public notice.

7. If the Secretary of the Army or his authorized representative determines there has been a violation of the terms and conditions of this PGP, he may suspend or revoke the authorization for an individual project under one or more of the PGPs. In addition, failure to comply with the terms and conditions of the PGPs may result in removal of the structures, restoration of the waterway, and/or imposition of penalties as provided by law.

8. The Permittee must maintain the activity authorized by this PGP in good condition and in conformance with the terms and conditions of the PGP.

SPECIAL CONDITIONS:

1. No work shall be performed under authority of PGP 98 until the permittee has received a TVA issued Section 26a Permit for authorized activities. The TVA Section 26a Permit application and permit processing instructions are available on the TVA website, <https://www.tva.gov/Environment/Shoreline-Construction/26a-How-to-Apply>.

2. Authorized work must be completed by the expiration date of the PGP. Work that is authorized by PGP 98, but that is not completed prior to the expiration date of the PGP, may be authorized by subsequent re-issuance of the PGP, if and when the PGP is re-authorized by the Corps. Other state and federal permitting agencies may have different expiration dates.

3. No work or activity is authorized by PGP 98 that would impact, affect, or otherwise degrade any cultural resources which are listed in or nominated for listing in the National Register of Historic Places. This includes any future sites that become listed or nominated.

4. If the Permittee or the Permittee's contractors discover any previously unknown historic or archaeological remains while accomplishing the activity authorized by the PGP, the Corps shall be immediately notified. The permittee is also responsible for compliance with applicable terms and conditions of the TVA issued 26.a Permit regarding cultural resources.

5. The activities authorized by PGP will not jeopardize a threatened or endangered species as identified under the Endangered Species Act, or destroy or adversely modify the critical habitat of such species.

6. If the Permittee or the Permittee's contractors discover any federally listed threatened or endangered species and/or their habitat while accomplishing work or activities authorized by PGP 98, the Corps shall be immediately notified. The permittee is also responsible for compliance with applicable terms and conditions of the TVA issued 26.a Permit regarding federally listed endangered species.

7. The Permittee agrees to make every reasonable effort to execute the work authorized by PGP 98 in a manner so as to minimize any adverse impact on fish, wildlife, and natural environmental values.
8. All work conducted under PGP 98 shall be located, outlined, designed, constructed, and operated in accordance with the minimal requirements as contained in the Georgia Erosion and Sedimentation Control Act of 1975, as amended." Utilization of plans and specifications as contained in "Manual for Erosion and Sediment Control, (Latest Edition)" published by the Georgia Soil and Water Conservation Commission or their equivalent will aid in achieving compliance with the aforementioned requirements. The latest edition of the manual can be accessed at [www.gaswcc.org](http://www.gaswcc.org).
9. The Permittee shall obtain and comply with all appropriate federal, state, and local authorizations required for the type of activity authorized by PGP 98.
10. Projects authorized by PGP 98 that also entail work on dry land adjacent to the lake may require a buffer variance. If applicable, a variance must be obtained from the Georgia Environmental Protection Division (Georgia EPD) prior to conducting land disturbing activities or placement of materials within the State-mandated buffer, per O.C.G.A. § 12-7-6(b)(15) of The Erosion and Sedimentation Act (E&S Act) of 1975. Please visit Georgia EPD's website, <http://www.gaepd.org>, or contact the Non-Point Source Program at (404) 651-8554, for further guidance on buffer determinations and variances. Construction of a shoreline stabilization project within the buffer and without a buffer variance, except for minor land disturbing activities, is in violation of O.C.G.A. 12-7-6(b)(15) or (16) in the E&S Act. Failure to maintain a stream buffer may require the issuance of a stop work order (O.C.G.A. 12-7-12(d)). For additional information on the E&S Act, what constitutes a minor land disturbing activity, and the process of obtaining a buffer variance from Georgia EPD, please call or visit Georgia EPD's website. Applicants may also refer to the "Streambank and Shoreline Stabilization Guidance," available on the website, for further information on the preferred, acceptable and discouraged methods of shoreline stabilization in Georgia.
11. No work shall be conducted under authority of PGP 98 that requires discharge of wet or otherwise uncured concrete below the ordinary high water mark unless the concrete is contained within waterproof forms until the concrete cures.
12. The discharge of dredged or fill material into waters of the United States shall consist of suitable material free from toxic pollutants in toxic amounts. All fill material, not excavated at project locations, shall be obtained from non-contaminated high ground sources which have little or no organic content. All dredged or borrowed material used as fill on this project will be from clean, uncontaminated sources and free from cultural resources.
13. PGP 98 does not authorize the discharge of dredged or fill material into streams, wetlands, or other special aquatic sites.

14. The Permittee shall ensure that contractors, subcontractors, and other personnel performing permitted work are aware of the terms and conditions of PGP 98.

15. The permittee shall comply with all conditions included in the attached Section 401 Water Quality Certification, issued December 16, 2016, by the Georgia EPD.

FURTHER INFORMATION:

1. Congressional Authorities: Authorization to undertake the activities described above are issued pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. § 403), and/or Section 404 of the CWA (33 U.S.C. § 1344).

2. Limits of this authorization.

a. This PGP does not obviate the need to obtain other Federal, State, or local authorizations required by law.

b. This PGP does not grant any property rights or exclusive privileges.

c. This PGP does not authorize any injury to the property or rights of others.

d. This PGP does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this PGP, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted, unpermitted activities, or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the U.S. in the public interest.

c. Damages to persons, property, to other permitted or unpermitted activities, or structures caused by the activity authorized by this PGP.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Re-evaluation of Permit Decision. The Corps may re-evaluate its decision on an activity authorized by a PGP at any time the circumstances warrant. Circumstances that could require a re-evaluation include, but are not limited to, the following:

- a. The permittee's failure to comply with the terms and conditions of the PGP.
  - b. The information provided by the permittee in support of his permit application proves to have been false, incomplete, or inaccurate.
  - c. Significant new information surfaces which the Corps did not consider in reaching the original public interest decision.
5. Such a re-evaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 C.F.R. § 325.7 or enforcement procedures such as those contained in 33 C.F.R. § 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring the permittee to comply with the terms and conditions of his permit authorization and for the initiation of legal action where appropriate. The permittee will be required to pay for any corrective measures ordered by the Corps, and if the permittee fails to comply with such directive, the Corps may in certain situations (such as those specified in 33 C.F.R. § 209.170) accomplish the corrective measures by contract or otherwise and bill the permittee for the cost.

This PGP becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:



for Marvin L. Griffin  
Colonel, US Army  
District Engineer

1/25/17

Date